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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/839,179	04/19/2001	Kenneth James Barker	RAL919990168US1	1524
26675	7590	11/23/2004	EXAMINER	
DRIGGS, LUCAS BRUBAKER & HOGG CO. L.P.A. DEPT. IRA 8522 EAST AVENUE MENTOR, OH 44060			CHANG, ERIC	
			ART UNIT	PAPER NUMBER
			2116	

DATE MAILED: 11/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/839,179

Applicant(s)

BARKER ET AL.

Examiner

Eric Chang

Art Unit

2116

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 22 October 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☒ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

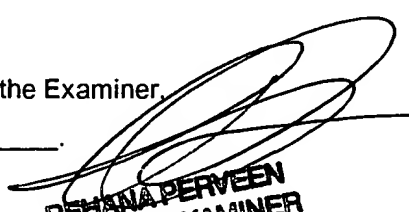
Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1,2 and 4-20.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____


REHANA PERVEEN
PRIMARY EXAMINER

Continuation of 2. NOTE:

The newly added limitations, inter alia, "eligibility to enter the low power mode is stored" with respect to the system as recited in proposed new claims 9-20, require further consideration/search. .

Applicant is reminded of the provisions of MPEP § 714.12 which states in pertinent part the following:

Once a final rejection that is not premature has been entered in an application, applicant or patent owner no longer has any right to unrestricted further prosecution.

The prosecution of an application before the examiner should ordinarily be concluded with the final action.

Applicant is additionally reminded of MPEP § 714.13 which states in pertinent part the following:

ENTRY NOT A MATTER OF RIGHT

It should be kept in mind that applicant cannot, as a matter of right, amend any finally rejected claims, add new claims after a final rejection (see 37 CFR 1.116) or reinstate previously canceled claims.

Except where an amendment merely cancels claims, adopts examiner suggestions, removes issues for appeal, or in some other way requires only a cursory review by the examiner, compliance with the requirement of a showing under 37 CFR 1.116(c) is expected in all amendments after final rejection.

Further examination of the application may be obtained by filing a continued prosecution application (CPA) under 37 CFR 1.53(d), if appropriate. See MPEP § 201.06(d). CPA practice does not apply to utility or plant applications if the prior application has a filing date on or after May 29, 2000. See MPEP § 706.07(h), paragraphs I and IV. In the remarks, applicants argued in substance that Xxxx does not teach or suggest that xx. But xxxx teaches [col. xx, lines xx]. In the remarks, applicants argued in substance that Xxxx does not teach or suggest that xx. But xxxx teaches [col. xx, lines xx].

Continuation of 5. does NOT place the application in condition for allowance because:

In the remarks, applicants argued in substance that Edam does not teach or suggest that the system is "capable of determining eligibility of the system to enter a low power mode based on operator generated signals, time of day, or non-use of the system for a period of time, or a combination thereof". But Edam teaches that the system determines if it is to enter a low power mode based on a non-use of the system for a period of time [col. 8, lines 44-67], such as when there is no or only a very limited amount of data being exchanged [col. 8, lines 48-52]. Furthermore, Edam teaches that when this condition is met, the system is eligible to enter a low power mode [col. 8, lines 62-67], substantially as claimed..